

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERIC LEE BRITT,

Defendant-Appellant.

UNPUBLISHED

May 17, 2005

No. 252314

Huron Circuit Court

LC No. 00-004122-FC

Before: Murphy, P.J., and White and Smolenski, JJ.

MEMORANDUM.

Defendant appeals as of right his 25 to 40 year sentence for second-degree murder, entered on resentencing after remand from this Court. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In defendant's initial appeal, this Court found that offense variable 3 of the sentencing guidelines was erroneously scored at 100 points where defendant's conviction was a homicide offense. Because the scoring error significantly affected the recommended sentence range, the Court remanded for resentencing. *People v Britt*, unpublished opinion per curiam of the Court of Appeals, issued April 23, 2002 (Docket No. 228017). On remand, the guidelines range was recalculated from 225 to 375 months to 180 to 300 months. The trial court reimposed the same 25 to 40 year sentence, noting that it was within the guidelines.

If a trial court's sentence is within the appropriate guidelines range, this Court must affirm the sentence unless the trial court erred in scoring the guidelines or relied on inaccurate information in determining the defendant's sentence. MCL 769.34(10); *People v Babcock*, 469 Mich 247, 261; 666 NW2d 231 (2003). Where a defendant's sentence is within the guidelines, a claim that the sentence is disproportionate is outside the limited scope of review provided for by the sentencing guidelines statute. *People v McLaughlin*, 258 Mich App 635, 671; 672 NW2d 860 (2003). Defendant's proportionality claim is not subject to review by this Court.

Affirmed.

/s/ William B. Murphy

/s/ Helene N. White

/s/ Michael R. Smolenski